

HOUSE BILL No. 1144

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-19; IC 20-26-5-4.

Synopsis: K-12 school building plans. Requires a school corporation to use standardized plans and specifications for construction, alteration, and repair of school buildings, athletic facilities, and other facilities. Permits a school corporation to appeal to the state board of education for approval to use other plans and specifications. Provides that the state board may approve the plans and specifications proposed by a school corporation if the board finds that using the proposed plans will be as efficient and cost effective as using the standards.

Effective: January 1, 2010.

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January 12, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1144

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 20-19-2-12, AS AMENDED BY P.L.146-2008,
2 SECTION 451, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2010]: Sec. 12. (a) The state board shall,
4 in the manner provided by IC 4-22-2, adopt rules setting forth
5 ~~nonbinding guidelines~~ **standards** for the selection of school sites and
6 the construction, alteration, and repair of school buildings, athletic
7 facilities, and other categories of facilities related to the operation and
8 administration of school corporations. ~~The nonbinding guidelines~~
9 **These standards** must include:
10 (1) preferred location and building practices for school
11 corporations, including standards for enhancing health, student
12 safety, accessibility, energy efficiency, operating efficiency, and
13 instructional efficacy;
14 (2) ~~guidelines~~ **standards** concerning minimum acreage, cost per
15 square foot or cost per ADM (as defined in IC 20-18-2-2),
16 technology infrastructure, building materials, per student square
17 footage, and other general space requirements, including space for



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academics, administration and staff support, arts education and auditoriums, libraries, cafeterias, athletics and physical education, transportation facilities, and maintenance and repair facilities;

(3) specifications for materials and labor;

(4) a plan that is ready to be bid for construction; and

~~(5)~~ **(5) additional ~~guidelines~~ standards** that the state board considers necessary for efficient and cost effective construction of school facilities.

The building law compliance officer appointed under IC 10-19-7-4, the office of management and budget, and the department of local government finance shall, upon request of the board, provide technical assistance as necessary for the development of the ~~guidelines~~ **standards**.

(b) The state board shall annually compile, in a document capable of easy revision, the:

(1) ~~guidelines~~ **standards** described in subsection (a); and

(2) rules of the:

(A) fire prevention and building safety commission; and

(B) state department of health;

that govern site selection and the construction, alteration, and repair of school buildings.

(c) A school corporation shall ~~consider use~~ the ~~guidelines~~ **standards** adopted under subsection (a) when developing plans and specifications for a facility described in subsection (a). Before submitting completed written plans and specifications for the selection of a school building site or the construction or alteration of a school building to the division of fire and building safety for issuance of a design release under IC 22-15-3, a school corporation shall do the following:

(1) Submit the proposed plans and specifications to the department. Within thirty (30) days after the department receives the plans and specifications, the department shall:

(A) review the plans and specifications to determine whether they comply with the ~~guidelines~~ **standards** adopted under subsection (a); and

(B) provide written recommendations concerning the plans and specifications to the school corporation, which must include findings as to any material differences between the plans and specifications and the ~~guidelines~~ **standards** adopted under subsection (a).

(2) After the earlier of:

(A) receipt of the recommendations provided under

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1 subdivision (1)(B); or
 2 (B) the date that is thirty (30) days after the date the
 3 department received the plans and specifications under
 4 subdivision (1)(A);
 5 issue a public document that describes the recommendations, if
 6 any, and any material differences between the plans and
 7 specifications prepared by the school corporation and the
 8 ~~guidelines~~ **standards** adopted under subsection (a), as determined
 9 under the guidelines adopted by the state board.
 10 (3) After publishing a notice of the public hearing under IC 5-3-1,
 11 conduct a public hearing to receive public comment concerning
 12 the school corporation's plans and specifications.

13 After the public hearing and without conducting another public hearing
 14 under this subsection, the governing body ~~may~~ **shall** revise the plans
 15 and specifications ~~or submit the plans and specifications to the division~~
 16 ~~of fire and building safety without making changes. to comply with~~
 17 **the standards adopted under subsection (a) or submit an appeal to**
 18 **the state board under subsection (d).** The school corporation shall
 19 revise the public document described in subdivision (2) to identify any
 20 changes in the plans and specifications after the public document's
 21 initial preparation.

22 **(d) If a governing body determines that it prefers using plans**
 23 **and specifications that are different than the standards adopted**
 24 **under subsection (a), the governing body may appeal to the state**
 25 **board to approve the school corporation's preferred plans and**
 26 **specifications. In the appeal, the governing body shall set forth**
 27 **detailed reasons as to why the plans and specifications the school**
 28 **corporation wants to use should be different from the standards,**
 29 **including evidence that the proposed plans and specifications will**
 30 **be as efficient and cost effective as using the standards. If the state**
 31 **board finds that using the school corporation's proposed plans and**
 32 **specifications will be as efficient and cost effective as using the**
 33 **standards, the state board may approve the proposed plans and**
 34 **specifications. The state board shall adopt rules, under IC 4-22-2,**
 35 **to carry out this subsection.**

36 SECTION 2. IC 20-19-3-8, AS AMENDED BY P.L.146-2008,
 37 SECTION 453, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JANUARY 1, 2010]: Sec. 8. (a) The department may not
 39 approve or disapprove plans and specifications for the construction,
 40 alteration, or repair of school buildings, except as necessary under the
 41 following:

42 (1) The terms of a federal grant or a federal law.

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(2) IC 20-35-4-2 concerning the authorization of a special school for children with disabilities.

(3) IC 20-19-2-12.

(b) Notwithstanding subsection (a), the department shall do the following:

(1) Receive and review plans and specifications as required by IC 20-19-2-12.

(2) Establish a central clearinghouse for access by school corporations that may want to use a prototype design in the construction of school facilities. The department shall compile necessary publications and may establish a computer data base to distribute information on prototype designs to school corporations. Architects and engineers registered to practice in Indiana may submit plans and specifications for a prototype design to the clearinghouse. The plans and specifications may be accessed by any person. However, the following provisions apply to a prototype design submitted to the clearinghouse:

(A) The original architect of record or engineer of record retains ownership of and liability for a prototype design.

(B) A school corporation or other person may not use a prototype design without the site-specific, written permission of the original architect of record or engineer of record.

(C) An architect's or engineer's liability under clause (A) is subject to the requirements of clause (B).

The state board may adopt rules under IC 4-22-2 to implement this subdivision.

SECTION 3. IC 20-26-5-4, AS AMENDED BY P.L.168-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 4. In carrying out the school purposes of a school corporation, the governing body acting on the school corporation's behalf has the following specific powers:

(1) In the name of the school corporation, to sue and be sued and to enter into contracts in matters permitted by applicable law.

(2) To take charge of, manage, and conduct the educational affairs of the school corporation and to establish, locate, and provide the necessary schools, school libraries, other libraries where permitted by law, other buildings, facilities, property, and equipment.

(3) To appropriate from the school corporation's general fund an amount, not to exceed the greater of three thousand dollars (\$3,000) per budget year or one dollar (\$1) per pupil, not to exceed twelve thousand five hundred dollars (\$12,500), based on

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the school corporation's previous year's ADM, to promote the best interests of the school corporation through:

- (A) the purchase of meals, decorations, memorabilia, or awards;
- (B) provision for expenses incurred in interviewing job applicants; or
- (C) developing relations with other governmental units.

(4) **Subject to IC 20-19-2-12**, to:

(A) Acquire, construct, erect, maintain, hold, and contract for construction, erection, or maintenance of real estate, real estate improvements, or an interest in real estate or real estate improvements, as the governing body considers necessary for school purposes, including buildings, parts of buildings, additions to buildings, rooms, gymnasiums, auditoriums, playgrounds, playing and athletic fields, facilities for physical training, buildings for administrative, office, warehouse, repair activities, or housing school owned buses, landscaping, walks, drives, parking areas, roadways, easements and facilities for power, sewer, water, roadway, access, storm and surface water, drinking water, gas, electricity, other utilities and similar purposes, by purchase, either outright for cash (or under conditional sales or purchase money contracts providing for a retention of a security interest by the seller until payment is made or by notes where the contract, security retention, or note is permitted by applicable law), by exchange, by gift, by devise, by eminent domain, by lease with or without option to purchase, or by lease under IC 20-47-2, IC 20-47-3, or IC 20-47-5.

(B) Repair, remodel, remove, or demolish, or to contract for the repair, remodeling, removal, or demolition of the real estate, real estate improvements, or interest in the real estate or real estate improvements, as the governing body considers necessary for school purposes.

(C) Provide for conservation measures through utility efficiency programs or under a guaranteed savings contract as described in IC 36-1-12.5.

(5) To acquire personal property or an interest in personal property as the governing body considers necessary for school purposes, including buses, motor vehicles, equipment, apparatus, appliances, books, furniture, and supplies, either by cash purchase or under conditional sales or purchase money contracts providing for a security interest by the seller until payment is made or by

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notes where the contract, security, retention, or note is permitted by applicable law, by gift, by devise, by loan, or by lease with or without option to purchase and to repair, remodel, remove, relocate, and demolish the personal property. All purchases and contracts specified under the powers authorized under subdivision (4) and this subdivision are subject solely to applicable law relating to purchases and contracting by municipal corporations in general and to the supervisory control of state agencies as provided in section 6 of this chapter.

(6) To sell or exchange real or personal property or interest in real or personal property that, in the opinion of the governing body, is not necessary for school purposes, in accordance with IC 20-26-7, to demolish or otherwise dispose of the property if, in the opinion of the governing body, the property is not necessary for school purposes and is worthless, and to pay the expenses for the demolition or disposition.

(7) To lease any school property for a rental that the governing body considers reasonable or to permit the free use of school property for:

(A) civic or public purposes; or

(B) the operation of a school age child care program for children who are at least five (5) years of age and less than fifteen (15) years of age that operates before or after the school day, or both, and during periods when school is not in session; if the property is not needed for school purposes. Under this subdivision, the governing body may enter into a long term lease with a nonprofit corporation, community service organization, or other governmental entity, if the corporation, organization, or other governmental entity will use the property to be leased for civic or public purposes or for a school age child care program. However, if payment for the property subject to a long term lease is made from money in the school corporation's debt service fund, all proceeds from the long term lease must be deposited in the school corporation's debt service fund so long as payment for the property has not been made. The governing body may, at the governing body's option, use the procedure specified in IC 36-1-11-10 in leasing property under this subdivision.

(8) To:

(A) Employ, contract for, and discharge superintendents, supervisors, principals, teachers, librarians, athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under

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IC 20-28-5), business managers, superintendents of buildings and grounds, janitors, engineers, architects, physicians, dentists, nurses, accountants, teacher aides performing noninstructional duties, educational and other professional consultants, data processing and computer service for school purposes, including the making of schedules, the keeping and analyzing of grades and other student data, the keeping and preparing of warrants, payroll, and similar data where approved by the state board of accounts as provided below, and other personnel or services as the governing body considers necessary for school purposes.

(B) Fix and pay the salaries and compensation of persons and services described in this subdivision.

(C) Classify persons or services described in this subdivision and to adopt schedules of salaries or compensation.

(D) Determine the number of the persons or the amount of the services employed or contracted for as provided in this subdivision.

(E) Determine the nature and extent of the duties of the persons described in this subdivision.

The compensation, terms of employment, and discharge of teachers are, however, subject to and governed by the laws relating to employment, contracting, compensation, and discharge of teachers. The compensation, terms of employment, and discharge of bus drivers are subject to and governed by laws relating to employment, contracting, compensation, and discharge of bus drivers. The forms and procedures relating to the use of computer and data processing equipment in handling the financial affairs of the school corporation must be submitted to the state board of accounts for approval so that the services are used by the school corporation when the governing body determines that it is in the best interest of the school corporation while at the same time providing reasonable accountability for the funds expended.

(9) Notwithstanding the appropriation limitation in subdivision (3), when the governing body by resolution considers a trip by an employee of the school corporation or by a member of the governing body to be in the interest of the school corporation, including attending meetings, conferences, or examining equipment, buildings, and installation in other areas, to permit the employee to be absent in connection with the trip without any loss in pay and to reimburse the employee or the member the employee's or member's reasonable lodging and meal expenses

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and necessary transportation expenses. To pay teaching personnel for time spent in sponsoring and working with school related trips or activities.

(10) To transport children to and from school, when in the opinion of the governing body the transportation is necessary, including considerations for the safety of the children and without regard to the distance the children live from the school. The transportation must be otherwise in accordance with applicable law.

(11) To provide a lunch program for a part or all of the students attending the schools of the school corporation, including the establishment of kitchens, kitchen facilities, kitchen equipment, lunch rooms, the hiring of the necessary personnel to operate the lunch program, and the purchase of material and supplies for the lunch program, charging students for the operational costs of the lunch program, fixing the price per meal or per food item. To operate the lunch program as an extracurricular activity, subject to the supervision of the governing body. To participate in a surplus commodity or lunch aid program.

(12) To purchase textbooks, to furnish textbooks without cost or to rent textbooks to students, to participate in a textbook aid program, all in accordance with applicable law.

(13) To accept students transferred from other school corporations and to transfer students to other school corporations in accordance with applicable law.

(14) To make budgets, to appropriate funds, and to disburse the money of the school corporation in accordance with applicable law. To borrow money against current tax collections and otherwise to borrow money, in accordance with IC 20-48-1.

(15) To purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or the school corporation's employees in connection with motor vehicles or property and for additional coverage to the extent permitted and in accordance with IC 34-13-3-20. To purchase additional insurance or to establish and maintain a program of self-insurance protecting the school corporation and members of the governing body, employees, contractors, or agents of the school corporation from liability, risk, accident, or loss related to school property, school contract, school or school related activity, including the purchase of insurance or the establishment and maintenance of a self-insurance program protecting persons described in this subdivision against false

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imprisonment, false arrest, libel, or slander for acts committed in the course of the persons' employment, protecting the school corporation for fire and extended coverage and other casualty risks to the extent of replacement cost, loss of use, and other insurable risks relating to property owned, leased, or held by the school corporation. To:

(A) participate in a state employee health plan under IC 5-10-8-6.6;

(B) purchase insurance; or

(C) establish and maintain a program of self-insurance; to benefit school corporation employees, including accident, sickness, health, or dental coverage, provided that a plan of self-insurance must include an aggregate stop-loss provision.

(16) To make all applications, to enter into all contracts, and to sign all documents necessary for the receipt of aid, money, or property from the state, the federal government, or from any other source.

(17) To defend a member of the governing body or any employee of the school corporation in any suit arising out of the performance of the member's or employee's duties for or employment with, the school corporation, if the governing body by resolution determined that the action was taken in good faith. To save any member or employee harmless from any liability, cost, or damage in connection with the performance, including the payment of legal fees, except where the liability, cost, or damage is predicated on or arises out of the bad faith of the member or employee, or is a claim or judgment based on the member's or employee's malfeasance in office or employment.

(18) To prepare, make, enforce, amend, or repeal rules, regulations, and procedures:

(A) for the government and management of the schools, property, facilities, and activities of the school corporation, the school corporation's agents, employees, and pupils and for the operation of the governing body; and

(B) that may be designated by an appropriate title such as "policy handbook", "bylaws", or "rules and regulations".

(19) To ratify and approve any action taken by a member of the governing body, an officer of the governing body, or an employee of the school corporation after the action is taken, if the action could have been approved in advance, and in connection with the action to pay the expense or compensation permitted under IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12, and

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1 IC 20-48-1 or any other law.
2 (20) To exercise any other power and make any expenditure in
3 carrying out the governing body's general powers and purposes
4 provided in this chapter or in carrying out the powers delineated
5 in this section which is reasonable from a business or educational
6 standpoint in carrying out school purposes of the school
7 corporation, including the acquisition of property or the
8 employment or contracting for services, even though the power or
9 expenditure is not specifically set out in this chapter. The specific
10 powers set out in this section do not limit the general grant of
11 powers provided in this chapter except where a limitation is set
12 out in IC 20-26-1 through IC 20-26-5, IC 20-26-7, IC 20-40-12,
13 and IC 20-48-1 by specific language or by reference to other law.

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